

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>DAVID and RENEE HENRY</b> , <i>individually and as guardians and natural parents of S.J.K.H, a minor</i>  <b>v.</b>  <b>SCHOOL DISTRICT OF PHILADELPHIA and DANIEL J. LAZAR</b> , <i>in his official and individual capacities</i>	<b>CIVIL ACTION</b>  <b>NO. 19-1115</b>
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**ORDER RE: MOTION TO DISMISS**

**AND NOW**, this 6th day of September, 2019, upon consideration of the Motion to Dismiss filed by Defendants the School District of Philadelphia and Daniel J. Lazar (ECF 3), and the Response thereto (ECF 4), it is hereby **ORDERED** as follows:

1. Plaintiffs' claims under Title IX of the Education Amendments Act of 1972, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Rehabilitation Act, and the Fourteenth Amendment pursuant to 42 U.S.C. § 1983 (Counts I–VIII) are **DISMISSED**, without prejudice, for exhaustion of administrative remedies. Plaintiffs shall initiate the administrative process within thirty (30) days.
2. Plaintiffs' § 1983 claim based on violations of the Pennsylvania Safe Schools Act in Count VIII is **DISMISSED** with prejudice.
3. As to the balance of Plaintiffs' claims (Counts I–VII, the Fourteenth Amendment claim under § 1983 in Count VIII, and Counts IX–X), the Court does not decide the merits under Federal Rule of Civil Procedure 12(b)(6) at this time. It is hereby further **ORDERED** as follows:
  - a. All proceedings are stayed until further Order of the Court;
  - b. The case shall be transferred to the Civil Suspense File;
  - c. The Clerk of the Court shall mark this case as closed for statistical purposes;

- d. The Court shall retain jurisdiction over this case and the case shall be returned to the Court's active docket in 180 days or upon further Order of the Court; and
- e. The entry of this Order shall not prejudice the rights of the parties to this litigation.

**BY THE COURT:**

**/s/ Michael M. Baylson**

**MICHAEL M. BAYLSON, U.S.D.J.**

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